IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

CRP.No. 1575 of 2003()

AGAINST THE ORDER DATED 14/11/2002 IN EP.288/2000 IN OS.402/1995 of II ADDL.SUB COURT,THRISSUR

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REVN. PETITIONER: DECREE HOLDER/APPLICANT

STATE BANK OF INDIA, KURIACHIRA BRANCH,
THRISSUR DISTRICT, REPRESENTED BY ITS
BRANCH MANAGER.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.BENBY GERVACIS

RESPONDENTS: JUDGMENT DEBOTORS/RESPONDENTS

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1. M/S. PULIKKOTTIL OIL MILLS,
PROPRIETOR-PULIKKOTTIL JAMES S/O. PORINCHU
ELAMTHURUTHY, P.O.KUTTANELLUR, THRISSUR DISTRICT

2. T.C.MARY W/O. PULIKKOTTIL PORINCHU,
ELAMTHURUTHY, P.O. KUTTANELLUR, THRISSUR DISTRICT

BY ADV. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

C.R.P .NO.1575 OF 2003

Dated 11th January 2007

O R D E R

Petitioner is decree holder and respondent judgment debtor in O.S.402/1995. Petitioner is challenging the dismissal of the execution petition as well as the application to reduce the upset price as per separate orders dated 14/11/2002.

2. Learned counsel appearing for petitioner and respondents were heard. Records of the executing court were also perused.

3. Records reveal that mortgaged properties were directed to be sold in execution. Executing court fixed upset price at Rs.3,04,934/- and wrongly mentioned it as reserved price. Property was put up for sale twice. Finally it came up for sale on 1/11/2002. Decree holder filed E.A.1285/02 to reduce the upset price. Learned Sub Judge dismissed the application and holding that decree holder did not participate in the auction dismissed the application as well as the E.P.

4. As rightly pointed out by learned counsel appearing for petitioner executing court failed to note that no petition was filed under Rule 72 A of Order XXI for permission to bid or fixed the reserve price. Hence decree holder could not have participated or bid in the sale. In such circumstances, dismissal of the execution petition and the application to reduce the upset price are illegal and are quashed. Learned Sub Judge is directed to restore E.P.288/200 and proceed with the execution petition in accordance with law.

Revision petition is allowed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.

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M.SASIDHARAN NAMBIAR,J.

ORDER

C.R.P.No.1575 OF 2003

11th January 2007

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